

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

AMAZON.COM, INC., et al.,

Plaintiffs,

v.

DIANA CHALOVA, et al.,

Defendants.

CASE NO. C23-0747JLR

CONSOL. CASE NO. C23-0748JLR

ORDER

**I. INTRODUCTION**

Before the court is Plaintiffs Amazon.com, Inc., Amazon.com Services LLC (together, “Amazon”), and YETI Coolers, LLC’s (“YETI”, and with Amazon, “Plaintiffs”) *ex parte* motion for alternative service of process of their first amended complaint. (Mot. (Dkt. # 16); *see* Am. Compl. (Dkt. # 11).) Plaintiffs seek leave to serve Defendants Diana Chalova, doing business as Fine Time Beauty, and Viktoriia Daniuk, doing business as Minago (together, “Defendants”) using email addresses associated with their Amazon selling accounts and Payoneer, Inc. (“Payoneer”) virtual payment service

1 provider accounts. (*See generally* Mot.) Neither Defendant has appeared in this action  
2 and neither has filed a response to the motion. (*See generally* Dkt.) Being fully advised,  
3 the court GRANTS Plaintiffs' *ex parte* motion for alternative service of process.

## 4 II. BACKGROUND

5 This action arises from Defendants' alleged sale of counterfeit YETI-branded  
6 drinkware on Amazon.com. (Am. Compl. ¶ 4 (describing the YETI Trademarks); *id.*  
7 ¶¶ 39-46 (describing Defendants' alleged roles in advertising, marketing, offering,  
8 distributing, and selling those products).)

9 Plaintiffs originally sued Defendants' Amazon selling accounts, Fine Time Beauty  
10 and Minago, in separate lawsuits. (*See* Compl. (Dkt. # 1) (suing Fine Time Beauty));  
11 Compl., *Amazon.com v. Minago*, No. C23-0748JLR (W.D. Wash. May 22, 2023), Dkt.  
12 # 1 (suing Minago).<sup>1</sup> As part of their investigation into the selling accounts, Plaintiffs  
13 obtained information from Payoneer regarding the bank accounts linked to those selling  
14 accounts. (Commerson Decl. (Dkt. # 18) ¶¶ 2-4; Haskel Decl. (Dkt. # 17) ¶ 6.) Through  
15 this investigation, Plaintiffs confirmed that Ms. Chalova was the owner of the Payoneer  
16 account that received funds from the Fine Time Beauty selling account; Ms. Daniuk was  
17 the owner of the Payoneer account that received funds from the Minago selling account;  
18 and that Defendants accessed their Payoneer accounts using IP addresses located in  
19 Ukraine. (Commerson Decl. ¶ 4.) Payoneer also disclosed the email addresses  
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21 <sup>1</sup> Plaintiffs subsequently filed an amended complaint naming Ms. Chalova and Ms.  
22 Daniuk as Defendants and consolidated the cases against Fine Time Beauty and Minago into this  
matter. (*See* Am. Compl.; 11/9/23 Min. Order (Dkt. # 13).)

1 associated with both Defendants' Payoneer accounts and two possible physical addresses  
2 for Defendants in Ukraine. (*Id.*) Plaintiffs' investigation later found that the potential  
3 physical addresses disclosed by Payoneer were either not locatable or not associated with  
4 Defendants. (*Id.* ¶ 6.) Despite conducting a thorough investigation, Plaintiffs have been  
5 unable to identify valid physical locations for Defendants. (*Id.* ¶ 7.)

6 On December 20, 2023, Plaintiffs sent test email messages to the email addresses  
7 associated with Ms. Chalova's and Ms. Daniuk's Payoneer accounts:  
8 andreynfedov9987@gmail.com and rivalmutapiolxgwi554@gmail.com. (*Id.* ¶ 9.) The  
9 test emails informed Defendants of the lawsuit and contained copies of the amended  
10 complaint, civil cover sheet, and summonses. (*Id.*) Plaintiffs did not receive any error  
11 notices or bounce-back messages in response to those emails. (*Id.*)

12 Defendants also registered email addresses when they created their Amazon  
13 selling accounts. (Haskel Decl. ¶¶ 4-5.) These email addresses are used to conduct  
14 business through the selling accounts and are the primary means of communication  
15 between Amazon and Defendants. (*Id.* ¶ 5.) On December 19, 2023, Plaintiffs sent test  
16 email messages to the email addresses associated with Defendants' Amazon selling  
17 accounts. (Commerson Decl. ¶ 8.) These test messages also informed Defendants of the  
18 lawsuit and contained copies of the amended complaint, civil cover sheet, and  
19 summonses. (*Id.*) Plaintiffs did not receive any error notices or bounce-back messages in  
20 response to the email sent to the address associated with Ms. Daniuk's selling account,  
21 xaerbjoas589@gmail.com. (*Id.*) They did, however, receive an error message in  
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1 response to the email sent to the address associated with Ms. Chalova’s selling account,  
2 hffscdcxhhvfd664@gmail.com. (*Id.*)

3 Plaintiffs now ask the court for leave to serve Ms. Chalova using the email address  
4 associated with her Payoneer account, and Ms. Daniuk using the email addresses  
5 associated with her Payoneer account and Amazon selling account. (*See generally* Mot.)

### 6 III. ANALYSIS

7 Federal Rule of Civil Procedure 4(h) governs service of process on foreign  
8 businesses. Fed. R. Civ. P. 4(h). Rule 4(h)(2) authorizes service of process on a foreign  
9 corporation “at a place not within any judicial district of the United States, in any manner  
10 prescribed by Rule 4(f) for serving an individual, except personal delivery under  
11 (f)(2)(C)(i).” Fed. R. Civ. P. 4(h)(2). Rules 4(f)(1) and 4(f)(2) provide specific methods  
12 of serving process on individuals in foreign countries. *See* Fed. R. Civ. P. 4(f)(1)-(2).  
13 Rule 4(f)(3) allows international service by a method not listed in Rule 4(f)(1) or (2) if  
14 the method is “not prohibited by international agreement, as the court orders.” Fed. R.  
15 Civ. P. 4(f)(3). As long as the method of service is “court-directed and not prohibited by  
16 an international agreement, service of process ordered under Rule 4(f)(3) may be  
17 accomplished in contravention of the laws of the foreign country.” *Rio Props., Inc. v. Rio*  
18 *Int’l Interlink*, 284 F.3d 1007, 1014 (9th Cir. 2002). “Service under Rule 4(f)(3) is  
19 neither a ‘last resort’ nor ‘extraordinary relief’”; rather, “[i]t is merely one means among  
20 several which enables service of process on an international defendant.” *Id.* at 1015  
21 (quoting *Forum Fin. Grp., LLC v. President & Fellows of Harvard Coll.*, 199 F.R.D. 22,  
22 23 (D. Me. 2001)).

“Even if facially permitted by Rule 4(f)(3),” however, “a method of service of process must also comport with constitutional notions of due process.” *Rio Props.*, 284 F.3d at 1016. “[T]he method of service crafted by the district court must be ‘reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.’” *Id.* at 1016-17 (quoting *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 314 (1950)). Thus, the court proceeds to analyze (1) whether service of process by email to Defendants in Ukraine is permitted under Rule 4(f)(3) and (2) whether that method comports with due process.

#### **A. Rule 4(f)(3)**

First, the court concludes that service of process by email on Defendants located in Ukraine is not “prohibited by international agreement” and is therefore permitted by Rule 4(f)(3). Fed. R. Civ. P 4(f)(3)

Ukraine is a signatory to the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents (“Hague Convention”). *See Contracting Parties*, Hague Conference on Private International Law, <https://www.hcch.net/en/instruments/conventions/status-table/?cid=17> (last visited Jan. 9, 2024). Service through a country’s Central Authority is the principal means of service under the Hague Convention. *See Rubies Costume Co. v. Yiwu Hua Hao Toys Co.*, No. C18-1530RAJ, 2019 WL 6310564, at \*2 (W.D. Wash. Nov. 25, 2019). Article 10 of the Hague Convention, however, “preserves the ability of parties to effect service through means other than a recipient-nation’s Central Authority as long as the recipient-nation has not objected to the specific

alternative means of service used.” *Id.* (citing Hague Convention, art. 10). Ukraine has implemented the Hague Convention “in full” and does not expressly object to service by email. *See Declaration/Reservation/Notification*, HCCH, <https://www.hcch.net/en/instruments/conventions/status-table/notifications/?csid=426&disp=resdn> (last visited Jan. 9, 2024). Courts in the Ninth Circuit have approved alternative service of process by email to defendants in Ukraine. *See, e.g., Davy v. Paragon Coin, Inc.*, No. 18-cv-00671-JSW, 2020 WL 1539617, at \*1-2 (N.D. Cal. Feb. 5, 2020) (approving service by email on defendants in Ukraine); *Williams-Sonoma Inc. v. Friendfinder Inc.*, No. C 06-06572 JSW, 2007 WL 1140639, at \*2 (N.D. Cal. Apr. 17, 2007) (same). The court concludes, based on the foregoing, that the Hague Convention and Rule 4(f)(3) do not prohibit service of process on Defendants by email.

### **B. Due Process**

Second, the court concludes that service of process on Defendants using the email addresses associated with their Amazon selling accounts and/or Payoneer accounts comports with constitutional due process because it is “reasonably calculated, under all the circumstances, to apprise [them] of the pendency of the action and afford them an opportunity to present their objections.” *Mullane*, 339 U.S. at 314.

The due process requirement for alternative service by email is satisfied when the plaintiff demonstrates that the email addresses at issue are valid and that service by email to those addresses is likely to provide Defendants notice of the lawsuit. *See, e.g., Padded Spaces LLC v. Weiss*, No. C21-0751JLR, 2022 WL 1423701, at \*3 (W.D. Wash. May 5,

2022) (approving alternative service by email where counsel successfully sent messages to the email addresses associated with defendant's selling account and through its Amazon.com storefront); *Amazon.com, Inc. v. Dafang HaoJiafu Hotpot Store*, No. C21-0766RSM, 2021 WL 4307067, at \*1 (W.D. Wash. Sept. 22, 2021) (concluding that service by email would provide sufficient notice where plaintiffs showed that defendants conducted business through the Internet); *Toyo Tire & Rubber Co. v. CIA Wheel Grp.*, No. 15-0246-DOC (DFMX), 2016 WL 1251008, at \*3 (C.D. Cal. Mar. 25, 2016) (approving alternative service where plaintiff successfully sent messages to the defendants' email addresses). Here, Plaintiffs have demonstrated that the email addresses associated with Ms. Daniuk's Amazon selling account and both Defendants' Payoneer accounts are used in business and still valid. (*See* Haskel Decl. ¶ 5; Commerson Decl. ¶¶ 4, 8-9.) Therefore, the court GRANTS Plaintiffs' *ex parte* motion for alternative service by email.

#### IV. CONCLUSION

For the foregoing reasons, the court GRANTS Plaintiffs' *ex parte* motion for alternative service of process (Dkt. # 16) and AUTHORIZES Plaintiffs to effect service (1) on Ms. Chalova by email to andreynefedov9987@gmail.com; and (2) on Ms. Daniuk, by email to xaerbjoas589@gmail.com and rivalmutapiolxgwi554@gmail.com. The court

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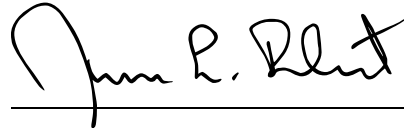
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1 further ORDERS Plaintiffs to advise the court of the status of service by no later than  
2 **February 9, 2024.**

3 Dated this 9th day of January, 2024.

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6 JAMES L. ROBART  
7 United States District Judge  
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